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ABSTRACT

Although the suppression in 1917 of "The Masses," an influential Socialist magazine, has been depicted as an American tragedy, such a narrow interpretation ignores the bizarre, confused, often comic developments and episodes that attended the magazine's end. A reexamination of the demise of "The Masses" has been made to show the milieu in which the proceedings occurred. Using biographical materials and original, contemporary sources, this reanalysis has helped elucidate the federal government's wayward legal machinations, its position with regard to the magazine, the devil-may-care attitudes of the left-wing editors themselves, the hilarity of the first trial, and the war hysteria of the times. More than a tragic story of a small, powerless, left-wing publication silenced by the ruthless collusion of establishment forces, the premature end of "The Masses" is really a part of the larger history of a more youthful, less cynical America. (RL)

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LEFT-WING TRAGEDY OR COMIC OPERA?: A NEW LOOK AT THE DEMISE OF THE MASSES

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I

From December, 1912, when Max Eastman became editor, until the final issue in late 1917, The Masses was the most influential Socialist magazine in America. A number of respected historians, including Edwin and Michael Emery and Frank Luther Mott, have reserved the highest praise for The Masses.[1] Even the less ebullient critics have acknowledged the magazine's importance. Alfred Kazin, for example, admits that although The Masses was "run like a circus wagon," it helped restore a "literary consciousness to New York City."[2] The consensus among scholars is that, at the very least, The Masses was the best expression of the wit, gaiety, and innocence of American left-wing thought before World War I. This view is shared by Irving Howe who notes that those who worked on The Masses "shared the sentiments of their age, its characteristic lilt and bravado . . . they regarded themselves as soldiers in an irregular army, which would triumph through the power of truth, the power of beauty, and the power of laughter."[3]

Considering the importance of the magazine, it is surprising that no complete history of it has been published. The one unpublished study focuses more on editorial and literary content than on historical development.[4] The period in the magazine's history which has received most academic attention was the censorship struggle between the editors and the United States Post Office. Scholars often use the government's actions against the magazine as a classic example of official suppression of free speech. This view usually portrays the demise of The Masses as an unmitigated tragedy--a small, powerless publication silenced by a relentless, reactionary establishment.

One of the proponents of the tragic interpretation of The Masses' demise is Frederick Hoffman. For Hoffman, it was "the howling winds of war chauvinism lashing ever more furiously at the magazine's socialist-pacifist point of view"[5]

that destroyed The Masses. Henry May, one of the foremost students of the period, views the magazine's death as indicative of America's loss of innocence during World War I. Neither The Masses or the naive optimism of its artists and editors could "survive the change of climate," and government suppression of the magazine was a small but significant act in "a great American tragedy."[6] John Allen Waite portrays the magazine's demise in equally dramatic terms:

> The Masses had stressed many of the most significant developments during the war, lines of thought which would occupy the future; yet the magazine was dead; and the internationalism for which it had fought was defeated by the forces of reaction so vividly castigated by the magazine.[7]

In these analyses and others, the conflict between The Masses and the federal government begins to assume mythic proportions--proportions which have helped engrave the story of the magazine's death in the annals of American radical legend.

This is not to say that the government's use of the Espionage Act and related measures to suppress the left-wing press during World War I and after was a frivolous matter. Many publications were ruthlessly silenced, and their publishers and editors were sentenced to jail terms. The period from early 1917 until 1920 was characterized by anxiety and fear bordering on the hysterical, and journalists, along with minority groups, were among the easiest targets.[8] Therefore, the pessimistic view of the era taken by many historians and literary critics is justified.

In the case of The Masses, however, the tragic interpretations ignore a number of significant points. First, the magazine was financed by a group of wealthy, influential progressives including Amos Pinchot, E.W. Scripps, Samuel Untermeyer, and copper magnate, Adolph Lewisohn. As William O'Neill observes, "few of the editors appreciated the irony of this situation."[9] Second, Eastman came from an old, established family of Congregational ministers, studied with Dewey at Columbia, and counted Woodrow Wilson and George Creel among his many

acquaintances in Washington. Third, there is also the fact that within three months after the suppression of The Masses, most of the staff was busy working on The Liberator, a magazine much like its predecessor. Finally, neither Eastman, Floyd Dell or Art Young--three of the seven persons originally indicted for violations of the Espionage Act--expressed much sorrow over the death of The Masses; in fact, they appeared relieved to be rid of it. These considerations and others, combined with the many instances of comic relief which attended the entire episode, strongly suggest that a tragic interpretation of the magazine's death may be too narrow.

In this paper, I shall reexamine the demise of The Masses, beginning with the passage of the Espionage Act on June 15, 1917, and ending with the close of the second conspiracy trial on October 5, 1918. Much of my evidence has come from the autobiographies of Eastman, Dell, and Young. I have used accounts in the New York Times to verify data in the autobiographies. The Times, along with Ray Stannard Baker's collection of Wilson's letters, has helped elucidate the government's position in regard to The Masses. Finally, and most importantly, I have carefully drawn on The Masses and The Liberator because, while obviously biased, they are the most complete contemporary accounts of the events under consideration, especially those leading up to the first trial in April, 1918.

II

When the United States entered the war in April, 1917, the Wilson administration began considering the possibility of censorship. The first attempt to establish specific provisions was a failure because the newspapers decided to fight back. In the confusion, however, they allowed with little or no protest the passage of the Espionage Act and the creation of the Committee on Public Information under the chairmanship of George Creel.[10] Creel had the power

to act as a censor, but he did not see his job that way:

> In no degree was the Committee an agency of censorship, a machinery of concealment or repression. . . . In all things, from first to last, without halt or change, it was a plain publicity proposition, a vast enterprise in salesmanship, the world's greatest adventure in advertising.[11]

The task of enforcing the censorship was largely turned over to the Post Office Department under Postmaster General Albert S. Burleson.

The Espionage Act, which served as Burleson's chief authority, was passed on June 15, 1917. The important censorship provisions were contained in Title I, Section 13:[12]

> Whoever, when the United States is at war, shall willfully make or convey false reports or false statements with intent to interfere with the operation of success of the military or naval forces of the United States or to promote the success of its enemies and whoever, when the United States is at war, shall willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States shall be punished by a fine of not more than $10,000 or imprisonment for not more than twenty years, or both.

Although intent had to be proved, it was obvious that any opposition to the war, to censorship, to conscription, could be construed as "obstructing the recruiting or enlistment service."

When Creel was appointed and widely thought to be a censor, Merrill Rogers, business manager of The Masses, took a copy of the June issue of the magazine to Washington to ask of it was acceptable for mailing, especially an anti-war advertisement written by Mrs. J. Sargeant Cram. Creel told Rogers that mailing approval was in the hands of the Post Office Department, but glanced over the magazine and said he could see nothing which violated the law.[13] The editors then consulted Harry Weinberger, a New York lawyer, before advising readers that treason was legally a matter of overt acts, not speech. As for sedition, there was no

such thing in law as a seditious utterance, especially if the speaker advocated a change in the law.[14] This legal opinion apparently covered The Masses' continued campaign against conscription and war, but to be safe, Eastman also wrote to Burleson to determine how the magazine could be written so that it could both express opinions and remain mailable. He got no definite response.

The attempts to remain both legal and honest failed. When the August issue was presented for mailing, the magazine was declared unmailable under the Espionage Act. Solicitor General William H. Lamar of the Post Office Department refused to tell Rogers why the magazine had been barred. Lamar would only say that he objected to "the tone and spirit" of the August issue.[15]

On July 12, Pinchot, Eastman, and John Reed wrote President Wilson protesting the revocation of The Masses' mailing privileges. The following day, Wilson responded to Pinchot:

> The letter of yesterday signed by yourself, Mr. Eastman, and Mr. Reed has just been laid before me and you may be sure has been read with a great deal of interest and sympathy. I am going to take the matter you present about the paper called The Masses up with the Postmaster General to see just how the case may best and most justly be handled.[16]

Sometime between July 13 and July 17, Wilson discussed the matter with Burleson. The only record of the conversation is the version Burleson recounted to Baker ten years later:[17]

> Burleson was uncompromising in his attitude. In the case of The Masses, the President told him he knew some of the editors, and added: "Now Burleson, these are well-intentioned people. Let them blow off steam."
>
> "I'm willing to let them blow off steam," replied Burleson, "providing they don't violate the Espionage Act. If you don't want the Espionage Act enforced, I can resign. . . . We are going to war, and these men are discouraging enlistments."
>
> The President laughed and said, "Well go ahead and do your duty."

On July 17, Wilson sent Pinchot a letter from Burleson justifying the refusal of the Post Office Department to transmit the August issue through the mails.[18]

Meanwhile, The Masses retained Gilbert Roe and went to court seeking an injunction to prevent the postmaster of New York from barring the magazine from the mails. At the hearing before Federal District Court Judge Learned Hand, Assistant District Attorney Earl Barnes revealed that the Post Office Department objected to a Boardman Robinson cartoon, "Making the World Safe for Democracy," H.J. Glintenkamp's cartoons of the liberty bell and conscription, a poem about Emma Goldman and Alexander Berkman in prison by Josephine Bell, a paragraph in an article on conscientious objectors written by Dell, and two editorials by Eastman, "A Question" and "Friend of American Freedom."[19]

The Masses' attitude toward the conscription law and the treatment of conscientious objectors was interpreted as interfering with the successful conduct of the war by obstructing recruiting. In response, the magazine editors affirmed the rights of free speech and free press. They especially condemned the indirect suppression through the Post Office, and Roe argued that unless the magazine was indictable under the Espionage Act, it was mailable.[20]

Judge Hand granted a preliminary injunction fully supporting the magazine's position. Establishing intent as the crux of legal interpretation, Hand said the magazine did not violate the specific law if it intended only to oppose the law itself and have it changed. Possible effects which might violate the law were not relevant as applied to the particular things singled out by the government "without a violation of their meaning quite beyond any tolerance of understanding." Hand declared that Americans had a constitutional right to oppose their government at any time, providing they did not deliberately intend to violate the provisions of a specific law. He also agreed with Roe that the editors would have to be indictable in order for the magazine to be unmailable.[21] The injunction was ready for signing in New York on July 25.

On the same date, 250 miles away in Windsor, Vermont, U.S. Circuit Court

Judge C.M. Hough ordered a stay of execution of Judge Hand's preliminary injunction on an appeal by Postmaster Patten of New York. The procedure by which one judge countermanded another, while legal, was, as Hough said, unknown in his experience. Hough declared, however, that the Post Office was not a common carrier, but a high governmental duty not bound to carry revolution. Hough also made several references to the Constitution in his decision, which prompted Eastman to reply that it was "our impression that the Constitution is no longer mentioned among gentlemen."[22]

The September issue was also held up at the Post Office. The New York Times later reported that the 13 copies submitted were detained for lack of postage.[23] The real weapon was disclosed when the magazine received a demand from the Post Office Department that it show cause why its second-class mailing privilege should not be revoked. The strategy was to argue that The Masses was no longer "regularly published, and therefore not entitled to the privileges. . . . The August issue had gone through the mails; therefore, by reason of such irregularity The Masses had ceased to be a newspaper or periodical within the meaning of the law."[24] The fact that the Post Office Department had caused the irregularity itself by a procedure which was still to be tested in court made no difference. Even the sober Hough admitted that the government's decision seemed a "'rather poor joke'."[25] Regardless, the mailing privilege was revoked.

At the beginning of September, matters were becoming desperate for The Masses. F.W. Scripps decided to intervene on the magazine's behalf and took Eastman to see Burleson. The meeting was friendly, but Burleson would make no concrete promises regarding the magazine's mailing privileges.[26] Eastman followed up with a long letter to Wilson praising, among other things, the President's recent letter to the Pope concerning peace terms. Eastman also posed a question to the President:[27]

> I ask you whether it is with your authority that an appointee of yours endeavors to destroy the life of one of the three growing Socialist magazines in this country, as a war measure in a war for democracy--and to do this without even giving its editor the opportunity which he has demanded to alter it or mould it somewhat to meet the exigencies of a military situation.

Wilson replied on September 18 that "a time of war must be regarded as wholly exceptional and that it is legitimate to regard things which would in ordinary circumstances be innocent as very dangerous to the public welfare."[28] He added that the censorship line was difficult to draw, but "we are trying, it may be clumsily but genuinely, to draw it without fear or favor or prejudice."[29] The President's letter exemplified for Eastman "that flight into abstractions which was the principal infirmity of Wilson's mind."[30] There was little hope for the magazine contained in the President's reply.

The suppression of The Masses became complete with the decision of the United States Circuit Court of Appeals on November 2, 1917.[31] The court upheld Patten in excluding the magazine from the mails. Judge Henry W. Rogers, who wrote the decision, said the sole ground for exclusion was obstructing the recruiting service and recommended the indictment of the editors and business manager under the Espionage Act.

Rogers' decision automatically excluded the magazine from the newsstands since the Trading With the Enemy Act of October 6 made newsdealers guilty of treason if they carried material violating the Espionage Act. Particularly distressing to the newsdealers was the provision that they could be found guilty of collusion with the enemy even if they distributed the offensive publications before any crime was proved. Most newsdealers decided The Masses was not worth risking prison for.

Without access to the mails or the newsstands, The Masses was in a hopeless situation. The staff managed to publish a November-December number, but it was

the last. Eastman and Dell closed the red brick office on Greenwich Avenue in the middle of November, "on the very date, almost, of the Bolshevik revolution in Russia."[32] Despite the fierce legal struggles that had ensued, neither editor seemed particularly disturbed by the magazine's death. Eastman, oddly enough, was almost ecstatic:

> . . . you need not picture me as buried in gloom over the death of The Masses. . . . I was glad to be free. It was as though we had achieved the revolution and could now take a rest!
>
> At any rate, we did take a rest, and for me it was a joyful one.[33]

Eastman not only welcomed the opportunity to relax, but he also found that he could devote full attention to actress Florence Deshon, the latest among his romantic interests.[34]

While not as effusive as Eastman, Dell also expressed a great sense of relief when recalling the November closing.[35] He had always considered himself a novelist first, and he would use the opportunity to devote his time to writing. Dell was also beginning to have second thoughts about the isolationist policy of The Masses, and he eventually endorsed American intervention in Europe and even registered for the draft. In July, three months after the first trial, Dell was inducted into the Army and reported to boot camp in Spartanburg, South Carolina.[36] Dell humorously recalls the episode:[37]

> My being sent to camp was a confused blunder on the part of everybody: I, still being under indictment under the Espionage Act, had no right to be in the Army, and after ten days, when the mistake was discovered, I was sent home with an honorable discharge. Perhaps it was supposed that I had got into the Army with the idea of trying to stir up the mutinies and insurrections with which I had at first been charged in The Masses indictment.

Immediately after his discharge, Dell went back to work on The Liberator.

Eastman, Dell, Reed, Young, Rogers, Glintenkamp, and Bell were indicted by a Federal Grand Jury on November 19, 1917, for conspiracy to violate the Espionage Act.[38] Not all the material cited in the indictment had appeared in

the August, 1917 issue. Eastman and Dell were indicted for the writings mentioned above. John Reed was indicted for a title he wrote for an article in the same issue. Oddly, "Knit a Strait-Jacket for Your Soldier Boy" appeared above a piece lifted directly from the New York Tribune; therefore, Reed was indicted on the basis of his headline only. Bell was included because of her poem about Goldman and Berkman, "A Tribute," also in the August number. Art Young's cartoon, "Having Their Fling" appeared in the September issue, and Glintenkamp's depiction of death measuring a nude boy for a coffin was drawn for the October Masses.

Glintenkamp's cartoon is particularly interesting because it appeared at a time when the editors were trying to tone down their anti-conscription rhetoric. The grisly sketch does not match the moderate mood of the rest of the October issue. Dell later explained that Glintenkamp had arranged to have the cartoon published without either his or Eastman's knowledge.[39] This is a feasible explanation given the rather laissez-faire editorial policy of the magazine. At any rate, Glintenkamp fled to Mexico leaving the others to face the consequences. Eastman later joked that Glintenkamp "waded the Rio Grande and joined the 'Soviet of Slackers'."[40] Reed was in Russia covering the Revolution and was unable to return for the trial. Only five of the seven defendants named in the indictment faced the bench when the trial began on April 15, 1918.

III

The trial opened in an atmosphere of fervent patriotism.[41] It was the height of the Hindenberg drive, and the courtroom was directly above a Liberty Bond booth where patriotic music was played by a brass band every few minutes. The presiding judge was Augustus N. Hand, cousin of Learned Hand. Of Augustus Hand, Eastman was to write, "He was less genial and less patriarchal than his cousin . . . but he had a like unshakeable integrity."[42]

The proceedings began on a comic note. No sooner had the courtroom been seated when the band outside the window struck up "The Star-Spangled Banner." Five-foot-two-inch Merrill Rogers jumped immediately to attention. After a bewildered pause, Hand also rose, and the courtroom followed suit. The episode was repeated three times in the next hour before an exasperated Hand instructed everyone to dispense with the ceremony.[43]

Morris Hillquit and Dudley Field Malone were attorneys for the defense, opposed by Earl Barnes. Hillquit moved immediately to dismiss the indictment on the grounds that the prosecution offered no evidence of conspiracy. There was no proof, Hillquit argued, that the Masses' editors had conspired to publish a magazine designed to obstruct enlistment efforts. Yes, they had published a magazine, just as they had done for the past five years--as part of their jobs. He added that Bell had never seen the other defendants until she met them in the courtroom, a fact that would have made it difficult for her to participate in a conspiracy.

After reading Bell's free verse poem, Hand asked Hillquit if, indeed, it was a poem. "'It says so in the indictment, your Honor,'" Hillquit rejoined. Hand then dropped the indictment against Josephine Bell. He also dismissed the portion of the indictment which accused the editors of conspiring to cause mutiny and refusal of duty in the armed forces, leaving only the charge that the editors had conspired to obstruct the draft.[44]

The prosecution attempted to prove that The Masses' editors had conspired to "obstruct the recruiting and enlistment service of the United States." Letters and telegrams were submitted by Barnes to document that college students and army officers subscribed to the magazine. The district attorney also produced minutes of a Masses' staff meeting in an effort to prove conspiracy, but Art Young testified that the meeting had involved a dispute between the artists over the use of their drawings as propaganda.[45]

No other concrete evidence was introduced by Barnes. The peculiar cooperative nature of the magazine made conspiracy difficult to establish. Since the August issue was made up during the summer when most of the staff was out of New York City, the difficulty of proof was compounded. As a result, the case was prosecuted almost entirely on the grounds of patriotism and general opposition to radicalism. No evidence of direct, pro-German sympathies was established, nor were German financial sources indicated. All that remained was to stress the prejudices against socialists and pacifists and the spectre of anarchism as they were opposed to love of country. The defendants were pictured as particularly dangerous because of their intelligence and abilities. Barnes, Dell contended, was only doing his duty in taking full advantage of the war hysteria.[46]

The defense accepted the challenge of radicalism. Eastman gave the bulk of the testimony. For almost three days, the stand was transformed into a lecture podium while Eastman gave what amounted to lectures on socialism, war, and the relationship of both to Americans. Hillquit characterized the scene in a post-trial speech:

> It did not seem a trial. It had the appearance of a university for uneducated, unenlightened American citizens in the jury box and outside it. They were instructed upon the fundamental rights under the Constitution which it is alleged this new bill seeks to uphold. They were instructed upon the rights of American citizens to think for themselves on all vital questions, including the question of war and peace and conscription.[47]

The conspiracy charge was dismissed by the defendants as unproved in the face of the repeated attempts by the editors to bring The Masses to the attention of the authorities. The sole question, the defense argued, was the guarantee of free speech and press to men whose intent, although opposed to the government's policy, was as patriotic as any man's. As the debated leading to conscription and the war showed, as Wilson's 1916 campaign and the narrow margin of victory showed, there was honest and open disagreement between Americans over those issues.

To The Masses' editors, a state of war did not preclude disagreement based on intelligence. The welfare of the nation demanded that the government be subject to opposition in peace or war if democracy and liberty were to prevail. Such freedom was not only necessary to patriotism, but was fundamentally guaranteed to all Americans unless they were specifically violating a law. Hillquit's closing speech eloquently summarized the case for the defense.

> Constitutional rights cannot be surrendered and cannot be regained. They are not a gift. They are the conquest by this nation, as they were a conquest by the English nation. They can never be taken away, and if returned, if given back after the war, they will never again have the same potent, vivifying force of expressing the democratic soul of a nation. They will be a gift to be given, to be taken, at the behest, at the whim or will or caprice of any individual or group of individuals.[48]

Hillquit challenged the jury to put aside ideas of agreement or disagreement with the defendants, to refuse to weigh the case as a measure of their own patriotism, to apply to it only the test of constitutional rights.

Despite the gravity of the issues debated and the real danger that the defendants would be convicted and sent to jail, the comic relief foreshadowed by Rogers' patriotic antics recurred throughout the trial. Creel, appearing for the prosecution, stopped on his way out of the courtroom to shake hands with Eastman. In a loud whisper, he said, "' I hope I didn't do you boys any harm,'" a remark that did not escape the jurors.[49]

Both Eastman and Dell remarked that the captive courtroom audience was a refreshing change from the magazine's boisterous editorial meetings. Dell actually enjoyed his cross-examination, describing it as a "primitive game of wits."[50] Even Barnes seemed, at times, reluctant to send the defendants to jail, especially Art Young. In his summation, Barnes praised the defendants, but he reserved special accolades for Young.

> . . . a cartoonist of national reputation, a friend of Congressmen, and the Washington representative of one of our great magazines. . . . I could cry when I think of the position in which this undoubtedly fine personal character finds himself today. I know your hearts went out

> to him today. But gentlemen, we cannot let those feelings of affection, of love almost, that we have for a man like Art Young . . . interfere with our solemn duty.[51]

Indeed, it was the red-faced, rotund Young who proved to be the comic hero of the trial. In order to stay awake during the lengthy testimony, Young drew sketches of the participants and passed them around the courtroom during recesses. Once, when the cartoonist fell asleep, Malone anxiously demanded that someone give Young a pencil to wake him up. Young recalled that "even if [contempt] had been my bad luck and twenty years in prison my future, I don't think I could have stayed awake throughout that hot, listless afternoon while trivial technicalities were being messed over."[52] When he did awaken from his nap, Young proceeded to pen a sketch captioned, "Art Young on Trial for His Life," in which the featured character is sound asleep.[53]

Young was even better on the stand. He was asked why he had used the figure of the devil leading the band in his anti-war cartoon, and Young replied that "General Sherman described war as Hell, thus it seemed to me appropriate that the Devil should lead the band."[54] He was also asked to explain what he had meant in drawing his cartoon. After an ensuing argument with Barnes over whether the cartoon was designed to obstruct the draft, Young suddenly broke into a wide grin. One of his sketches had been of the prosecutor, and it had been circulated among the jurors. "I suppose some of the jurors may think I drew that picture in order to discourage you from enlisting, Mr. Barnes," Young cracked.[55]

Hand's charge to the jury emphasized that any man had the constitutional right to express any opinion whatsoever, however ill-timed, improper or even immoral, if he did not violate a specific law.[56]

> If it was the conscious purpose of the defendants to state truth as they saw it; to do this clearly and persuasively in order to lead others to see things in the same way, with the object to bring about modifications, reconstruction or re-shaping of national policy in accordance with what they believed right and true, and that obstruction of the recruiting and enlistment service was not their object, the jury cannot find them guilty.

If, on the other had, the jury found that the defendants knowingly conspired to obstruct the enlistment and recruitment of young men, the judge continued, they were in violation of the Espionage Act and should be found guilty.

The jury deliberated for 42 hours. Every so often they would return to the courtroom for further instructions. Dell described them as "hot, weary, angry, sad, limp and exhausted."[57] Only one juror, Eastman recalls, remained fresh throughout the ordeal. The defendants later learned that he was Henry Fredericks, juror number twelve. He was apparently convinced from the outset that the defendants were innocent. After a great deal of heated debate and near fisticuffs, he managed to swing one other juror to his side. The jury became hopelessly deadlocked, and Hand dismissed it. Afterwards, Eastman wrote a sonnet to Fredericks which captures both the seriousness and the ribaldry of the first Masses trial.

> When I looked hard in those blue eyes, my son,
> And saw no mercy and no melting there,
> No heat of conscience, and no pious care
> For points in virtue to be lost or won,
> But just like the cool barrel of a gun,
> A level gentle look into the air,
> Too humorous for faith, too brave for prayer,
> I knew that in twelve chances I had one.
> And when you looked up laughing at the judge,
> While his good jurors, locked up sixty hours,
> Confessed in sweat they could not make you budge,
> I did not feel like calling all the Powers
> To righteous witness justice had been done--
> I felt that to be with you would be fun.[58]

IV

The second Masses trial was neither as colorful or as important as the first. Like the first trial, it was held in New York City, and it ended in a hung jury. Yet, there were a number of differences. John Reed, who had returned from Russia during the summer, joined the other defendants and reported the trial for The Liberator. He, Eastman, Dell, Rogers, and Young appeared before Judge Martin

Manton on September 30, 1918. In addition, the defendants had limited legal counsel during the second trial. Hillquit was busy with another case, Malone was ill, and Seymour Stedman journeyed from Chicago to help. However, Stedman also became ill shortly after his arrival and appeared infrequently in court. The defendants were compelled to provide most of their own defense, and Eastman was selected spokesman for the group.[59]

Perhaps more important to the outcome of the trial was the shift in attitude of the defendants. Although still aware of the possibility of twenty years imprisonment, the second Russian revolution, the American invasion of Siberia, and the increasingly bitter persecution of socialists and other radicals made the defendants bolder in affirming the right to speak out. Also, the hysterical war spirit had begun to ebb, and Manton allowed a great deal of latitude in the courtroom. These factors combined to reduce much of the timorousness the defendants had felt during the first trial.

Eastman defended the St. Louis Proclamation, Dell defended conscientious objectors--although he no longer was one--and Reed defended the class war with evidence fresh from Russia. Eastman's three-hour summary was similar to much of his testimony during the first trial although it was more carefully prepared. Manton, in his charge to the jury, repeated with equal strength the legal support of constitutional rights which had been voiced by Augustus Hand six months earlier. This time, the jury voted eight to four for acquittal on the first two ballots. Manton dismissed the jurors at 10:10 p.m., October 5, and the government threw in the towel. The impounded correspondence was sent back to the editors.[60]

Eastman, Dell, Young, and Rogers returned to their duties on The Liberator. Reed had resigned from the magazine over philosophical differences with Eastman, but the parting was amicable. With the exception of issues related directly to conscription and the war effort, The Liberator was much like its forerunner. Under the joint editorship of Eastman and his sister, Crystal, The Liberator supported

the Russian Revolution, women's rights, sexual freedom, labor unions, and the other causes familiar to Masses' readers. Young, Robinson, Maurice Becker and other talented artists continued to contribute incisive, irreverent cartoons to the new magazine.[61]

Gradually, however, The Liberator became more polemical and doctrinaire. By 1922 circulation had sagged, finances had become strained, and Eastman had left. In October 1922, the editors agreed to turn the magazine over to the Communist Party. By the time of its death in 1924, there was little that remained of the originality and vitality it had inherited from its more famous predecessor.[62]

V

To narrowly interpret the demise of The Masses as a grim, left-wing struggle to preserve free speech and human dignity is to ignore the bizarre, confused, often comic developments and episodes between June 15, 1917 and October 5, 1918. Many scholars have depicted the magazine's suppression as an American tragedy, which it undeniably was. Yet, the tragic portrayal illuminates only a portion of the complete canvas. To disregard the government's wayward legal machinations, the devil-may-care ambivalence of the editors themselves, the hilarious moments during the first trial, and Floyd Dell's misbegotten induction into the Army is to partially distort the milieu in which the proceedings occurred.

The Masses, like the period in which it thrived, was filled with many of the paradoxes of American adolescence. The magazine was deadly serious and exasperatingly gay; bitter and maudlin; committed to class struggle and class conscious; idealistic and cynical. In short, it embodied many of the paradoxes of what has become known as America's innocence.[63] It is

gaiety and idealism which also thread through the fabric with which so many have attempted to shroud the demise of the magazine. It is also this brightness and gay insouciance which American radicalism has lost. The story of The Masses' demise is part and parcel of the history of a more youthful, less cynical America.

NOTES

[1]Edwin and Michael Emery, The Press and America: An Interpretative History of the Mass Media, 4th ed., (Englewood Cliffs, N.J.: Prentice Hall, 1978), pp. 274, 330-31. Frank Luther Mott, American Journalism, 3rd ed. (New York: MacMillan, 1962), pp. 623-25. Both works refer to the "brilliance" of The Masses and its editorship.

[2]Alfred Kazin, On Native Grounds (New York: Anchor Books, 1956), p. 169.

[3]Irving Howe, "Introduction" to Echoes of Revolt: The Masses, 1911-1917, ed., William L. O'Neill (Chicago: Quadrangle Books, 1966), p. 7.

[4]John Allen Waite, "The Masses: 1911-1917: A Study in American Rebellion" Ph.D. dissertation, University of Maryland, 1951). Waite's study is both thorough and sympathetic. He discusses the conspiracy trials and the demise of the magazine in the concluding chapter of the dissertation.

[5]Frederick J. Hoffman et al., The Little Magazine: A History and Bibliography ((Princeton: Princeton Univ. Press, 1946), p. 30.

[6]Henry May, The End of American Innocence (New York: Alfred A. Knopf, 1959), p. 392.

[7]Waite, "The Masses," p. 330.

[8]For a solid study of the period, see Robert Murray, Red Scare: A Study in National Hysteria, 1919-1920 (Minneapolis: Univ. of Minnesota Press, 1955). A standard contemporary account is Frederick Lewis Allen's, Only Yesterday: An Informal History of the Nineteen-Twenties (New York: Harper & Brothers, 1931), pp. 45-75.

[9]O'Neill, Echoes of Revolt, p. 18.

[10]The Masses acknowledged Creel's appointment by reminding him that the magazine had printed an article of his, "Rockefellar Law," when no other publication would accept it. The Masses, June 1917, p. 4.

[11]George Creel, How We Advertised America (New York: Harper, 1920), p. 4.

[12]Reprinted in James R. Mock, Censorship, 1917 (Princeton: Princeton University Press, 1941), pp. 49-50.

[13]This conversation was the focus of Creel's testimony during the first trial. See the New York Times, 25 April 1918, p. 13, col. 1.

[14]The Masses, July 1917, pp. 34-5.

[15]New York Times, 10 July 1917, p. 7, col. 3.

[16]Ray Stannard Baker, Woodrow Wilson: Life and Letters, Vol. 7 (New York: Doubleday, Doran & Co., 1939), p. 165

[17]Ibid., p. 165.

[18]Ibid., p. 166. In fairness to Wilson, it should be noted that the President was vexed by the censorship problem. His letters reveal a gradual hardening in his attitude against socialists and pacifists as the war dragged on, but he was continually troubled by what the proper application of the Espionage Act should be.

[19]New York Times, 14 July 1917, p. 7, col. 5.

[20]New York Times, 22 July 1917, p. 7, col. 1.

[21]New York Times, 25 July 1917, p. 11, col. 1.

[22]Max Eastman, "Bunches of Justice," The Masses, October 1917, p. 13.

[23]New York Times, 3 November 1917, p. 10, col. 3.

[24]Merrill Rogers, "The Insolence of Office and the Law's Delay," The Masses, October 1917, p. 3.

[25]Max Eastman, Love and Revolution: My Journey Through an Epoch (New York: Random House, 1964), p. 61.

[26]Ibid., pp. 61-62.

[27]Letter reprinted in the November-December 1917 issue of The Masses, along with Wilson's response, pp. 21, 24.

[28]Baker, Woodrow Wilson, p. 273; also reprinted in The Masses and many other sources.

[29]Ibid., p. 273.

[30]Eastman, Love and Revolution, p. 62.

[31]New York Times, 3 November 1917, p. 10, col. 3.

[32]Eastman, Love and Revolution, p. 64.

[33]Ibid., pp. 64, 67

[34]Ibid., pp. 60-81.

[35]Floyd Dell, Homecoming (New York: Farrar & Rinehart, 1933), pp. 298-309.

[36]Ibid., pp. 320-22. Also, the New York Times, 17 July 1918, p. 8, col. 2. The Times blamed Dell for the mix-up: "Dell was subsequently drafted, and neglected to tell the authorities that he was under indictment."

[37]Dell, Homecoming, p. 321.

[38]New York Times, 20 November 1917, p. 4, col. 5.

[39]O'Neill, Echoes of Revolt, p. 295.

[40]Eastman, Love and Revolution, p. 85.

[41]Arthur Frank Wertheim, The New York Little Renaissance (New York: New York University Press, 1976), p. 223.

[42]Eastman, Love and Revolution, p. 85.

[43]Floyd Dell, "The Story of the Trial," The Liberator, June 1918, p. 7. The incident is also mentioned in Art Young, Art Young, His Life and Times, ed. John N. Beffel (New York: Sheridan House, 1939), p. 334.

[44]Dell, Homecoming, p. 314; Eastman, Love and Revolution, p. 92.

[45]Dell, "The Story of the Trial," The Liberator, June 1918, p. 8.

[46]Ibid., p. 10.

[47]Ibid., p. 16.

[48]Ibid., p. 17, also quoted in Eastman, Love and Revolution, p. 96.

[49]Eastman, Love and Revolution, p. 94.

[50]Dell, Homecoming, p. 317.

[51]Eastman, Love and Revolution, pp. 97-8.

[52]Young, Art Young, p. 337.

[53]Ibid., p. 337.

[54]Ibid., p. 336.

[55]Eastman, Love and Revolution, p. 95.

[56]The Liberator, June 1918, p. 35. This section of the charge was reprinted because it was favorable to the defendants. The portion pointing to conviction was only paraphrased in the same issue.

[57]Floyd Dell, "The Story of the Trial," The Liberator, June 1918, p. 12.

[58]Reprinted in Eastman, Love and Revolution, p. 99.

[59]The second trial, like the first, received passing coverage in the New York Times. The most complete account was written by Reed for the December 1918 issue of The Liberator. The reportage, like Dell's of the first trial, is slanted in favor of the defendants.

[60]Eastman, Love and Revolution, p. 122.

[61]For an interesting comparison of the two magazines--particularly the art--see William Fitzgerald, Art and Politics (New York: Random House, 1972).

[62]Fitzgerald, Art and Politics, pp. 71-72.

[63]The classic study is, Henry May, The End of American Innocence, mentioned in Note 6 above.